

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
GARY SPARAGO,

Plaintiff,

- against -

BEAVER MOUNTAIN LOG HOMES, INC.,

Defendant.
----- X

Case No. 20 Civ. 276 (KMK)

**DECLARATION
OF GARY SPARAGO**

GARY SPARAGO declares under the penalties of perjury and in accordance with 28 U.S.C. § 1746 that the following is true and correct:

1. I am the Plaintiff in the action captioned above. I make this declaration based on my personal knowledge in opposition to Defendant’s motion to dismiss the Amended Complaint.

2. In addition to the documents that I included as exhibits with (or referenced in) the Amended Complaint, I have attached to this declaration a number of documents that Beaver Mountain created for me. These documents show the various stages of my log cabin project that Beaver Mountain oversaw.

3. For example, annexed as Exhibit 1 is a “Project Time Line” that Beaver Mountain created for me, which lists the different steps of the log cabin project as bullet points. (This project time line was also included with the Amended Complaint as Exhibit 2.)

4. The “Project Time Line” in Exhibit 1 lists the following steps to the Beaver Mountain process:

- Design Consultation – Design Process Begins: 11/06/15
- Approve Home Design, Budget, Schedule & payment: 9/30/17 (\$6500.00)
- Builder Selections and Select Financing: Between 11/1/17 – 11/15/17
- Finalize Home Plans, Total Investment & Building Schedule: Between 12/1/17 – 12/15/17
- Order Home, Purchase Agreement, next payment: 12/15/17
- Custom Home Production process begins and next payment: 6/14/18
- Beaver Mountain Delivery and Final Payment – Construction Begins: 9/6/18
- Delivery of Interior Materials – Construction Continues: As Needed
- Proposed Move In, Relax and Enjoy Your New Home:

(Exhibit 1.)

5. Annexed as Exhibit 2 is a November 6, 2015 “Sparago Site Visit Summary” that Beaver Mountain provided to me, which lists “John Lanner, Design Consultant & Project Coordinator” as one of the attendees. (*Id.*) (emphasis added).

6. As the November 6, 2015 summary also notes, Beaver Mountain and I planned to discuss “preliminary turnkey pricing” and “ builder candidates.” (*Id.*)

7. Annexed as Exhibit 3 is a December 11, 2015 “Sparago Design Review Summary” Beaver Mountain prepared for me, which again described attendee John Lanner as the “Project Coordinator” and again included a discussion about builder introductions.

8. Annexed as Exhibit 4 is a September 16, 2017 Sparago Design Review Summary” from Beaver Mountain, which reflects as “Action Items” (i) another payment I had to make to Beaver Mountain, and (ii) builder introductions with Beaver Mountain’s involvement set for later that fall.

9. Annexed as Exhibit 5 is a November 10, 2017 “Sparago Builder Introductions

Summary” that Beaver Mountain prepared for me, which again shows that John Lanner continued to attend meetings and to identify himself as the “Project Coordinator.” This summary also shows as an “Action Item” that only Beaver Mountain was responsible for the builder candidate follow-ups.

10. Annexed as Exhibit 6 is a copy of the December 6, 2017 cover letter from John Lanner to me and my wife, which accompanied the detailed bid analysis that Beaver Mountain prepared for me following the builder introductions. In the December 6, 2017 letter, Mr. Lanner wrote that he was “excited about the progress we have made over the past few months and remain confident we are getting closer to achieving your dream home.” (Exhibit 6.)

11. Exhibit 7 (also an excerpt from Beaver Mountain’s bid analysis) is a November 14, 2017 letter from John Lanner to Max Dutcher, one of the builder candidates. This letter to Mr. Dutcher provided instructions on how he should submit a bid so that Beaver Mountain could “assist the Sparagos through the bid process.” (*Id.*) (emphasis added). Beaver Mountain’s November 14, 2017 letter continues: “Finally, as part of our services to Mr. and Mrs. Sparago and to meet our goal at Beaver Mountain to save our clients time, it is imperative for you to coordinate this process through our office.”

12. Annexed as Exhibit 8 is a copy of another page from Beaver Mountain’s detailed bid analysis, which describes a summary of “Home Materials & Services” and contains the details below in two separate groupings: “New Home Planning & Design Services” and “Custom Home Materials & Services.” Beaver Mountain included as a part of its “New Home Planning & Design Services” “Builder Recruitment & Bid Analysis” and “Total Investment & Project Review.” (*Id.*) These are listed in addition to the materials that Beaver Mountain indicated it would be supplying for the project. (*Id.*)

13. The payment receipts that Beaver Mountain sent to me also show that I made three substantial payments to Beaver Mountain before I signed the Purchase Agreement on December 16, 2017. Annexed as Exhibit 9 are three payment receipts detailing that I paid Beaver Mountain a \$3,500 non-refundable payment on November 5, 2015, a \$6,500 pre-manufacturing payment on September 26, 2017, and a \$16,000 pre-manufacturing payment on December 8, 2017.

14. By the time I first saw and then signed the Purchase Agreement, I had already paid Beaver Mountain at least \$26,000, I had already spent considerable time designing the log cabin addition, and I had already worked with Beaver Mountain to meet with three potential builders for the project.

Dated: Edgewater, New Jersey
July 11, 2020



Gary Sparago